

COVENANT DECLARATION AND POWER OF ATTORNEY
FOR PATENT AND DESIGN APPLICATIONS

ATTORNEY DOCKET NO. 2119-107P

PLEASE NOTE:
YOU MUST
COMPLETE THE
FOLLOWING:

Insert Title:



VERTICAL COMB DRIVE ACTUATED DEFORMABLE MIRROR DEVICE
AND METHOD

Fill in Appropriate
Information -
For Use Without
Specification
Attached:



the specification of which is attached hereto. If not attached hereto,
the specification was filed on March 27, 1998 as
United States Application Number _____; and /or
the specification was filed on _____ as PCT
International Application Number _____; and was
amended under PCT Article 19 on _____ (if applicable)



I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (six months for designs) prior to this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Insert Priority
Information:
(if appropriate)



Prior Foreign Application(s)

Priority Claimed

(Number)	(Country)	(Month/Day/Year Filed)	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Insert Provisional
Application(s):
(if any)



I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

(Application Number)	(Filing Date)
<u>60/041,725</u>	<u>March 27, 1997</u>
_____	_____

Insert Requested
Information:
(if appropriate)



All Foreign Applications, if any, for any Patent or Inventor's Certificate Filed More Than 12 Months (6 Months for Designs) Prior To The Filing Date of This Application:

Country	Application No.	Date of Filing (Month/Day/Year)
_____	_____	_____
_____	_____	_____

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Insert Prior U.S.
Application(s):
(if any)



(Application Number)	(Filing Date)	(Status - patented, pending, abandoned)
_____	_____	_____
_____	_____	_____

I hereby appoint the following attorneys to prosecute this application and/or an international application based on this application and to transact all business in the Patent and Trademark Office connected therewith and in connection with the resulting patent based on instructions received from the entity who first sent the application papers to the attorneys identified below, unless the inventor(s) or assignee provides said attorneys with a written notice to the contrary:

Terrell C. Birch (Reg. No. 19,382)
 Joseph A. Kolasch (Reg. No. 22,463)
 Bernard L. Sweeney (Reg. No. 24,448)
 Charles Gorenstein (Reg. No. 29,271)
 Leonard R. Svensson (Reg. No. 30,330)
 Andrew D. Meikle (Reg. No. 32,868)
 Joe McKinney Muncy (Reg. No. 32,334)
 C. Joseph Faraci (Reg. No. 32,350)

Raymond C. Stewart (Reg. No. 21,066)
 James M. Slattery (Reg. No. 28,380)
 Michael K. Mutter (Reg. No. 29,680)
 Gerald M. Murphy, Jr. (Reg. No. 28,977)
 Terry L. Clark (Reg. No. 32,644)
 Marc S. Weiner (Reg. No. 32,181)
 Andrew F. Reish (Reg. No. 33,443)
 Donald J. Daley (Reg. No. 34,313)

Send Correspondence to:

BIRCH, STEWART, KOLASCH & BIRCH, LLP

P.O. Box 747 • Falls Church, Virginia 22040-0747

Telephone: (703) 205-8000 • Facsimile: (703) 205-8050

PLEASE NOTE:
 YOU MUST
 COMPLETE THE
 FOLLOWING:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of First or Sole
 Inventor:
 Insert Name of Inventor
 Insert Date This
 Document is Signed

Insert Residence
 Insert Citizenship

Insert Post Office
 Address

Full Name of Second
 Inventor, if any:

see above

Full Name of Third
 Inventor, if any

see above

Full Name of Fourth
 Inventor, if any

see above

Full Name of Fifth
 Inventor, if any

see above

GIVEN NAME Rodney L.	FAMILY NAME Clark	INVENTOR'S SIGNATURE <i>Rodney L. Clark</i>	DATE* 6/3/98
Residence (City, State & Country) Gurley, Alabama, USA		CITIZENSHIP USA	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country) 774 Bob Stiles Rd., Gurley, Alabama 35748, USA			
GIVEN NAME Jay A.	FAMILY NAME Hammer	INVENTOR'S SIGNATURE <i>Jay A. Hammer</i>	DATE* 6/3/98
Residence (City, State & Country) Huntsville, Alabama, USA		CITIZENSHIP USA	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country) 95 Indian Creek Rd., Huntsville, Alabama 35806, USA			
GIVEN NAME John R.	FAMILY NAME KARPINSKY	INVENTOR'S SIGNATURE <i>John R. Karpinsky</i>	DATE* 6/3/98
Residence (City, State & Country) Huntsville, Alabama, USA		CITIZENSHIP USA	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country) 2615 Spicewood Trail, Huntsville, Alabama 35811, USA			
GIVEN NAME	FAMILY NAME	INVENTOR'S SIGNATURE	DATE*
Residence (City, State & Country)		CITIZENSHIP	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country)			
GIVEN NAME	FAMILY NAME	INVENTOR'S SIGNATURE	DATE*
Residence (City, State & Country)		CITIZENSHIP	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country)			

* DATE OF SIGNATURE

Applicant or Patentee: Rodney L. Clark, et al.

Attorney's
Docket No.: 2119-107P

Serial or Patent No.: 09/049,121

Filed or Issued: March 27, 1998

For: VERTICAL COMB DRIVE ACTUATED DEFORMABLE MIRROR DEVICE AND METHOD
VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 C.F.R. § 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN MEMS OPTICAL INC.

ADDRESS OF CONCERN 205 Import Circle, Suite 2
Huntsville, AL 35806

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.3-18, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled VERTICAL COMB DRIVE ACTUATED DEFORMABLE MIRROR DEVICE AND METHOD by inventor(s) Rodney L. CLARK, Jay A. HAMMER and John R. KARPINSKY described in

- ☐ the specification filed herewith
☒ application serial no. _____, filed March 27, 1998
☐ patent no. _____, issued _____

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c) if that person made the invention or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e). *NOTE: Separate verified statements are required from each person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

NAME _____

ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

NAME _____

ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Rodney L. Clark
TITLE OF PERSON OTHER THAN OWNER President

ADDRESS OF PERSON SIGNING 205 Import Circle, Suite 2, Huntsville, AL 35806

SIGNATURE Rodney L. Clark DATE 6/3/98